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10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF WASHINGTON**

12 RIVER CITY MEDIA, LLC, et al.,

13 Plaintiffs,

14 v.

15 KROMTECH ALLIANCE
16 CORPORATION, et al.,

17 Defendants.

Case No. 2:17-cv-00105-SAB

**PLAINTIFFS' MOTION TO
EXTEND AMENDED PLEADINGS
DEADLINE**

Without Oral Argument
Date: March 12, 2018
Spokane, Washington

18 COMES NOW, Plaintiffs River City Media, LLC, Mark Ferris, Matt Ferris,
19 and Amber Paul ("Plaintiffs"), by and through the undersigned counsel, and
20 moves for an extension of the deadline for Plaintiffs to move for leave to amend
21 their Complaint for 30 days. This brief extension is necessitated by a delayed
22 production of documents and interrogatory responses from Defendants CXO and
23 IDG, and the deficiencies present in those responses which necessitate additional
24 motion practice. Under this Court's Scheduling Order (Dkt. No. 66), the deadline
25 for Plaintiff to move to amend is currently set for February 14, 2018. But Plaintiffs
26 did not receive responses from IDG and CXO on vital subjects until February 6,
27 2018. And after multiple attempts to reach an agreement, Plaintiffs are now forced
28 to file a motion to compel. For these reasons, Plaintiffs respectfully request an

1 extension of 30 days to file their Motion to Amend Complaint, and a corresponding
2 extension for Defendants to respond.

3 Plaintiffs have not unreasonably delayed discovery or their Motion to
4 Amend. While counsel for IDG and CXO appears to believe that Counsel for
5 Plaintiffs has unreasonably delayed this request, the activity in this case shows
6 otherwise. Plaintiffs have diligently pursued discovery.

- 7 • On November 28, 2017, and December 4, 2017, respectively, CXO and
8 IDG serves their responses to Plaintiffs' first set of interrogatories and
9 requests for production, stating that they would not produce documents
10 or respond to certain interrogatories necessary for Plaintiffs' First
11 Amended Complaint without a protective order. (Declaration of Leor
12 Neta, dated February 8, 2018 ("Neta Decl."), ¶ 2.)
 - 13 • On December 15, 2017, Plaintiffs sent a letter requesting a meet and
14 confer teleconference regarding IDG's and CXO's deficient discovery
15 responses. (*Id* ¶ 3, Ex. A.)
 - 16 • On December 21, 2017, Plaintiffs sent a letter requesting a meet and
17 confer teleconference regarding Defendant Kromtech's deficient
18 discovery responses. (*Id* ¶ 4, Ex. B.)
 - 19 • Over the Christmas and New Year's holidays, the parties conferred
20 about, negotiated, prepared for, and conducted the deposition of Plaintiff
21 Matthew Ferris. (*Id* ¶ 5.) Plaintiffs also proceed with third-party
22 discovery during that time. (*Id* ¶ 6.)
 - 23 • On December 28, 2017, Counsel for Plaintiffs requested a response from
24 Counsel for IDG and CXO to the December 15 meet and confer letter. (*Id*
25 ¶ 7, Ex. C.)
 - 26 • On January 4, 2018, Kromtech stated that it would not produce
27 documents without a protective order. (*Id* ¶ 8, Ex. D)
- 28

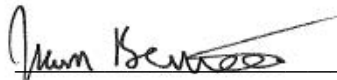
- On January 5, 2018, CXO and IDG moved for a protective order related to documents requested by Plaintiffs. (Dkt. No. 69.)
- On January 31, 2018, Kromtech produced 3,985 pages in response to Plaintiffs' discovery requests. (Neta Decl. at ¶ 9, Ex. E.)
- On February 6, 2018, the Court granted IDG and CXO's motion and entered the protective order. (Dkt. No. 77.)
- On Tuesday, February 6, 2018, at approximately 2:00 PM PST, CXO and IDG produced documents in response to Plaintiffs' requests for production. (Neta Decl. at ¶ 10, Ex. F.)
- And on February 7, 2018, at 10:36 a.m. PST, CXO and IDG served responses to Plaintiffs' Interrogatories. (*Id.* ¶ 11, Ex. G.)
- During the afternoon of February 7, counsel for Plaintiffs informed counsel for CXO and IDG of this and requested an extension of the Motion to Amend pleadings deadlines. (*Id.* ¶ 12.)
- That night, Counsel for Plaintiffs sent a letter to Counsel for CXO and IDG, detailing CXO and IDG's discovery deficiencies and requesting a meet and confer teleconference. (*Id.* Ex. H.)
- Counsel participated in that teleconference during the morning of February 8. (*Id.* ¶ 13.)

Both the production and the interrogatory responses Plaintiffs have received from IDG and CXO are wholly insufficient, including but not limited to the disclosure of page views and revenue related only to *one* article that reached users in Washington state. But Plaintiffs are entitled to discovery regarding all of Defendants CXO and/or IDG's activities targeted to Washington State. (*Id.* ¶ 12, Ex. H.) Counsel for Plaintiffs will file a Motion to Compel on February 9. (*Id.* ¶ 13.) In order to resolve this discovery dispute regarding vital information, Plaintiffs need additional time.

1 No pre-trial or trial dates will be affected by this extension of time to file a
2 First Amended Complaint. Counsel for Plaintiffs proposed this short extension to
3 counsel for Defendants and requested that the parties sign a stipulation to this
4 effect. Counsel for Defendants IDG and CXO refused to agree to the extension. ,
5 without explanation, did not agree to the extension and did not agree to meet and
6 confer on the matter. Defendants respectfully request that this Court grant a short
7 extension of the fact discovery, expert, and dispositive motion deadlines in this
8 matter.

9
10 Dated: February 8, 2018

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21 RIVER CITY MEDIA, LLC

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 8, 2018, I electronically filed the foregoing
3 with the Clerk of Court using the CM/ECF system, which will send a notification
4 of such filing (NEF) to the following:

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22 I declare under penalty of perjury that the foregoing is true and correct.

23
24 s/Rachel Horvitz
25 Rachel Horvitz
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